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N.J. Special Tax Commission

Report of the Special Tax Commission of the State...

[Trenton, N.J.?]

[1880]

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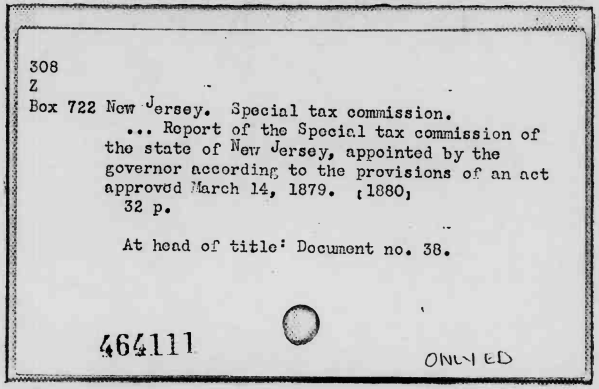
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... Report of the Special tax commission of the state of New Jersey, appointed by the governor according to the provisions of an act approved March 14, 1879. [1880]
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REPORT

OF THE

SPECIAL TAX COMMISSION

OF THE

STATE OF NEW JERSEY,

Appointed by the Governor according to the provisions of an act approved March 14, 1879.

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THE PRESIDENT OF THE SENATE, HON. W. J. SEWELL,
ON WEDNESDAY, FEBRUARY 18, 1880, LAID
THE FOLLOWING COMMUNICATION
BEFORE THE SENATE:

STATE OF NEW JERSEY, SPECIAL TAX COMMISSION,
NEW BRUNSWICK, N. J., Feb. 18, 1880.

Hon. W. J. Sewell, President of the Senate:

SIR—I have the honor herewith to transmit a copy of the report of the Special Tax Commission, as required by law.

Very respectfully your obedient servant,

GEO. W. ATHERTON.

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REPORT OF THE SPECIAL TAX COMMISSION.

To the Honorable the Senate and General Assembly of the State of New Jersey:

The undersigned, members of the Special Tax Commission appointed by His Excellency the Governor of the State, in accordance with an act passed by the Legislature of 1879, respectfully submit the following report:

The Commission was organized on the second day of April, 1879, by the election of George W. Atherton as Chairman, and John P. Jackson as Secretary *pro tempore*. Of the members originally appointed, the Hon. John Hopper resigned soon after the organization of the Commission, greatly to the regret of his associates, and the Hon. William Paterson was appointed in his place. The duties of the Commission, by the law authorizing their appointment, were defined as follows:

"That the said Commission shall make a full and thorough investigation of the manner in which the different kinds of property, and the various industries and occupations of the people of the State, are affected by existing laws relating to taxation, together with any defects, discrepancies or irregularities in such laws, [and] advise such changes and improvements therein as to them shall seem most likely to promote the agricultural, commercial, manufacturing and other interests of the people of the State."

The action of the Legislature in providing for the appointment of such a Commission clearly indicated the deep dissatisfaction which has long prevailed throughout the State

in regard to the condition of the laws relating to taxation; and it was the manifest intent of the comprehensive language above quoted to open the entire subject to the consideration of the Legislature and the people of the State. The Commission has accordingly thought itself charged with the duty of considering every branch of the subject, both in respect to the general principles involved and the practical details of a working system. At the same time, the purpose has been kept steadily in view to propose no radical and sweeping changes in the principles of the existing system, but to adhere as closely as possible to what had proved valuable in the experience of the people of the State, seeking merely to suggest such modifications and improvements as would remove the pressure of unequal burdens and pave the way for permanent relief.

In order to ascertain as fully as possible the workings of the present system, as observed in the experience of citizens and officials, a circular, calling attention to the duties of the Commission and inviting suggestions from every source, was very widely distributed throughout the State. Special pains was taken to place this circular in the hands of every local official in the State, and for this purpose the several county clerks, on application, furnished the Commission with nearly complete lists of their county and township officials. The clerks of two counties failed to respond to repeated and urgent requests for the names, and hence no direct communication has been possible with the officials of those counties. In every other case, the county clerks have shown the utmost promptness and courtesy in furnishing us the necessary information, and have thus placed the Commission under obligations which they thankfully acknowledge.

Blank forms were also sent to collectors, assessors, agricultural societies of every name, and corporations, containing carefully prepared lists of inquiries as to the bearing of our existing laws upon the various interests of the State. Upwards of 6,000 circulars were thus sent out, and the

replies, though not so general as we could have desired, have yet been numerous enough to give a fair representation of all portions of the State, and express, we think, its average opinion upon the subjects of inquiry entrusted to the Commission. Besides the formal replies thus sent to the Commission, they have been favored with many voluntary communications from citizens in various parts of the State, containing valuable criticisms and suggestions. In order still further to ascertain the views of all classes of citizens, six public meeting were held at Newark, Waverly, Flemington, Trenton, Camden and Mount Holly, respectively, some of which were well and others very poorly attended.

From all these sources the Commissioners feel assured that they have become acquainted with every variety of opinion in the State on this subject, whether it takes the form of discontent with the principles or detailed machinery of the system of taxation now in vogue, or of uneasiness under the burdens that press heavily upon the taxpayers of some localities. To all these forms of opinion and suggestion, the Commissioners have given patient and respectful consideration. They have solicited the fullest possible expression of opinion, and the views and recommendations at which they have arrived are believed to express the prevailing judgment of the State at large, quite as much as their individual convictions.

The subjects proposed to the Commission by the language of the law, already quoted, seem to fall naturally under two general heads: 1st, the general principles of a system of taxation; 2d, its practical bearing upon special industries and interests. The first of these subjects, while of great speculative and practical interest, it is necessary to consider in this report, only so far as it bears upon and interprets the results reached by the Commission.

Taxation is generally defined, substantially, to be the taking of a portion of the property of individuals by the Government for its own uses. But the money raised by taxation belongs to the people, is contributed by the people,

and should be expended under a strict accountability to the people; and it is therefore more in accordance with the spirit of our system of institutions to define it as that portion of their property which the people, through their representatives, choose to set apart for the support of Government. To this support every citizen is bound to contribute in proportion to his ability. It is often said that taxes are the amount paid for protection; and that consequently the tax one ought to pay is proportioned to the protection he receives from the Government. But, as Mill and others have pointed out, this would be to exact the heaviest taxes from those classes which, being most helpless, require most protection. The true theory seems to be that above indicated: that Government represents all, exists for the benefit of all, and should be supported by all—not in proportion to the special protection which they may individually be imagined to receive, but in proportion to their capacity to maintain the public service: "that is," says Adam Smith, "in proportion to the revenue which they respectively enjoy under the protection of the State."*

That this principle of equality is the first essential of any satisfactory system of taxation all will probably agree. And this was evidently the view of the Legislature, in requiring

*"These [taxes] ought to be regulated in such a manner, that all the citizens may pay their quota in proportion to their abilities. and the advantages they reap from the Society." Vattel: The Law of Nations, Book I., Ch. xx. ¶ 240.

"The subjects of every State ought to contribute towards the support of the Government as nearly as possible in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of State. The expense of government to the individuals of a great nation, is like the expense of management to the joint tenants of a great estate, who are all obliged to contribute in proportion to their respective interests in the estate. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation." Wealth of Nations, Book V., Ch. II., Part II

"Equality of taxation, as a maxim of politics, means equality of sacrifice. It means apportioning the contribution of each person towards the expenses of government so that he shall feel neither more nor less inconvenience from his share of the payment than any other person experiences from his." J. S. Mill: Principles of Political Economy, Book V., Ch. II., ¶2.

the Commission to report upon the bearing of existing laws on the various industries and interests of the State.

Besides being EQUITABLE, a sound system of taxation should be EFFICIENT, ECONOMICAL and SIMPLE: and in pursuing their inquiries, the Commission have endeavored to ascertain how far the system now prevailing in New Jersey conforms to the standards indicated, and to recommend such changes as seemed advisable from the standpoint of these requirements.

The complaints and suggestions received apply, with nearly equal force and unanimity, to all these points. There is a wide-spread conviction among the people that existing laws, or rather, perhaps, the mode in which they are administered, impose unequal burdens upon different forms of property—more especially upon the agricultural portions of the State. We are also told that our present system is defective in respect to the means of enforcing the collection of taxes, and that it is too complicated and uncertain to be readily understood and applied. A considerable part of this latter complaint evidently arises from the fragmentary character of the present laws as they stand upon the statute book. Beginning with the General Tax Law of 1846, and including the various acts since passed, there are now nearly fifty different laws which every tax official is compelled to explore in order to ascertain with any degree of accuracy what his duties are. As an example of the difficulties arising from this source take the law relating to a poll-tax: The law of 1846 makes no definite provision on the subject, but assumes that such a tax is to be levied. The law of April 5, 1866, makes a special provision in the matter. Six days later (April 11, 1866,) this provision was modified. March 21, 1871, a law was passed substantially restoring this discarded act of April 5, 1866. And in 1877 the law of April 11, 1866, was re-enacted, omitting the word "white." All these laws stand in the Revision, and it is not surprising that the Assessor labors under a painful degree of uncertainty as to his exact duty in so simple a matter. But mere defects of

form are of trifling importance compared with the more serious defects of the system itself.

It is undoubtedly true that personal property now escapes its proper proportion of taxation. The report of the Comptroller of the State, for 1879, gives returns from the several counties which show an aggregate of only $130,000,000.00, while the real property amounts to $427,000,000.00 (both in round numbers). It thus appears that of the entire property in the State, on which taxes are assessed, only about 26 per cent. is returned as personal; where a true valuation would probably show that the value of personal property is fully equal to that of real. A recent official return of the State of Massachusetts, where the system of minute search for personal property has been more thoroughly carried out than in almost any other State, gives a little over four-ninths as personal and a little less than five-ninths as real property. But even in that State, and with the very efficient system there employed, it is not claimed that more than 75 or 80 per cent. of the personal property is actually reached.

The question how to reach the vast amounts of personal property which thus escape taxation, and on what principle it may most wisely be dealt with, is one of the most difficult in the whole range of an exceedingly difficult and complicated subject. Its importance will justify us in considering it somewhat at length. So far as regards visible and tangible personal property—such as household goods, stock in trade, implements, etc.—no difficulty arises. They are readily observed, their value is easily ascertained, and they should be treated like real estate and taxed where they are situated. But bonds, stocks, credits, and other forms of incorporeal personal property which, in the aggregate, represent enormous values, easily elude assessment, so that frequently the person who is most able to pay a tax is most able to escape it. There are four ways of dealing with this class of property, each of which has been advocated in different States, or in the same State at different times: 1st. Exempt it altogether. 2d. Empower the local assessors to ascertain its

entire amount by a vigorous and relentless inquisitorial process. 3d. Expect assessors (as under our present law) to accomplish the same end with inadequate means. 4th. Relieve local assessors entirely, or so far as possible, from the responsibility of seeking such property, and provide for reaching it by the machinery of the State Government.

I. The favorite argument presented in favor of the first method is, that it is impossible, under any system whatever, to reach that kind of property; that the owners of it can and will successfully evade every effort to ascertain its character and amount; that the attempt to search it out merely stimulates the contrivance of ingenious forms of concealment, evasion or fraud; and that a tax laid on tangible and visible property really diffuses and distributes itself over all other kinds of property, and thus in the end secures substantial equality of taxation. The Commission are not convinced that the alleged diffusion of burden ever actually takes place; but even if the proof were far more convincing than it seems to them, it is certain that the *temporary* burden on real estate would be greatly increased by the adoption of such a system, and the present condition of real estate in New Jersey, especially in the farming districts, is not such as to justify any addition to its already heavy burdens.

II. The second method of reaching the kind of personal property referred to, requires the introduction of inquisitorial methods of examination, which are foreign to the habits and sentiments of our people, and which the Commission are not willing to recommend. Such methods are alike distasteful to officials and taxpayers. They involve a minute specification of all kinds of property, which any individual may happen to own, verified under the sanction of stringent oaths. In case the return is unsatisfactory, the assessor, obeying the spirit of this system, must institute a minute and searching examination, which very few would be found in fact to undertake, and from which the taxpayer would in most instances feel himself justified in trying to escape. And even if the methods of such a system could be fully en-

forced, in individual cases, the facilities for transferring this species of property are so great, that large amounts of it would inevitably seek and find some mode of escaping assessment. Or, assuming for a moment that a system could be devised and successfully operated, under which escape should be found impossible, New Jersey is so situated between Pennsylvania with a system of light assessment, and New York with a heavy system lightly enforced, that the owners of such property would be crowded out of the State, taking their wealth with them. A policy leading to such results could work nothing but injury to New Jersey, and a corresponding advantage to her neighboring States.

III. The third method, as has been already intimated, is that now existing in this State. The law requires that "all real and personal estate within this State, whether owned by individuals or corporations, shall be liable to taxation at the full and actual value thereof;" and every assessor is required to take oath, before the county board, that he has valued all such property "at its full and fair value." But, notwithstanding the explicitness of the law, and the oath, the inquiries of the Commission leave no doubt in their minds that more than half of the most valuable personal property in the State habitually escapes taxation. The last report of the Comptroller has been quoted in another connection, as showing that the amount returned by the assessors last year was only $130,000,000, against $427,000,000 worth of real estate; whereas, the value of the former is probably fully equal to that of the latter. If this assumption is correct, it follows that something like $300,000,000 worth of personal property pays no tax. Or, taking as the basis of an estimate the result actually reached in Massachusetts, where four-ninths of the valuation consists of personal property, the amount of personal property in this State which pays no tax is considerably more than $200,000,000. It must be confessed that, considering what the law *intends* to accomplish, either of these results is startling; but the facts seem to admit of no other interpretation. It would be altogether erroneous, however, and would do great injustice to a most respectable body of men, to assume that this state of things is chargeable to the assessors. Individual cases may no doubt be found, in which the duties of that office are negligently and inefficiently performed; but, on the whole, we believe that they secure substantially as good results as the system admits of. The law requires everything to be taxed, but provides only the most inadequate means for doing it. That evasion and concealment are habitually resorted to, under the present law, is indeed sufficiently proved by the figures already quoted, showing the enormous disproportion between the valuations of personal and real property respectively.

But if any further evidence were needed, it has been furnished, in abundance, to the Commission in reply to their question: "In what ways, if at all, do individuals evade a proper assessment?" One assessor replies: "*By forgetting to tell the truth.*" Another: "*By downright lying.*" Another: "*By lying and then swearing to it.*" Many other replies express the same judgment, on the part of those officials whose duty compels them to deal most directly with this phase of the subject, and who consequently appreciate the defects and difficulties of our system more fully than citizens in general can be expected to do. It is not an agreeable duty for the Commission to point out an evil which strikes so surely and so fatally at the very foundations of public morality; but an evil so wide-spread, so productive of injustice to the State, and so serious an occasion of discontent among those who desire honestly to discharge their obligations to the public, cannot be cured by shutting our eyes to its existence. It is the business of the State, in its whole administration, to exemplify justice and sound morality. But any law or system which not merely tolerates but invites such results as we have indicated, becomes the teacher and prolific parent of injustice and immorality. We must take facts as we find them. Men do not like to pay taxes. But Government must have them, in order to live; and it thus becomes the duty of the State to lay its burdens, first, as lightly as possi-

ble; then, as evenly as possible; and, finally, in such a manner as to offer those who may still desire to escape them neither a fair ground of excuse nor reasonable hope of success.

The difficulty we are considering undoubtedly arises largely from the fact that our machinery for assessing taxes was devised for a condition of things wholly different from that to which it has now to be applied. With the advancement of industrial development in recent times, there have sprung into existence vast masses of wealth, organized and managed under new conditions, and entering closely into the very structure of our social system, which, for the most part, were unknown at the beginning of the present century. At that time wealth chiefly consisted of material things, simple in form, readily open to observation, and assessable without great risk of error. Moreover, society was then so constituted that every man knew pretty accurately his neighbor's property, and the local assessor had little difficulty in reaching a just valuation. At present all this is changed, both as to social conditions, and the forms of wealth, and men may now be worth millions which no assessor can discover, or which, if discovered, he cannot with certainty reach. But while the things to be assessed have so vastly multiplied in form and variety, the means provided for assessing them remain substantially what they were in the middle of the last century. In other words, our system of assessment, when originally created, was intended to reach only tangible and visible things; and this system, notwithstanding the immense industrial and social changes that have intervened, remains nearly the same as when first established. An exception to this remark must of course be made in favor of some excellent systems, established by special laws, in a few of the cities of the State.

A very interesting illustration, showing what forms of wealth were taxed in the early history of New Jersey, is furnished by the accompanying tax lists, as prescribed in the laws of 1759 and 1782:

A LIST of all the Ratables in the Township of in the County of in the Province of New Jersey, with the Assessments made thereon, in the Month of , in the year of our Lord 1759.

PERSONS NAMES.	Value of the Land.	Acres of Land.	Horses and Cattle, 25 s. each.	* Sheep at 3 s. each.	Servants and Slaves.	Single Men, who keep a horse, 6 s. each.	Single Men.	Sloops, Scooners, Shallops, Boats, Flats, etc.	Merchants and Shop-keepers.	Grist Mills and number of stones.	Saw Mills.	Fulling Mills.	Forges.	Forges, with number of fires.	* Bloomaries.	* Glass Houses.	Still Houses, that distil molasses.	Other Stills.	Ferries.	Brew-houses.	Coaches, Chariots and Chaises, 9 s. each.	Two-wheel Chaises, at 3 s. each.	Riding Chairs, etc., at 1 s. each.	£.	S.	D.

Here cast up the total of each kind of ratables, as well as the sums they amount to.

* NOTE.—The items marked with an asterisk do not appear on the later list.

A List of the Rateables of the several Townships in the County of in the State of New Jersey, taken in the Month of 1782, with the Assessment made thereon.

Townships Names.	Acres of improved land.	Value of ditto per hundred acres	Acres of unimproved land.	Value of ditto per hundred acres	Houses and lots not ex'g 10 acres	Value of houses and lots.	Horses at 35 s. each.	Horned cattle at 30 s. each.	£	S.	D.	Total wherein to levy.	Householders.	Merchants, Shop-keepers and Traders.	Fisheries.	Saw Mills.	Grist Mills.	Fulling Mills.	Furnaces.	Forges.	Rolling and Slitting Mills.	Oil Mills.	Snuff Mills.	Stills.	Brew Houses.	Taverns.	Tan Yards.	Ferries.	Vessels and Boats.	Single Men and Horses.	Single Men.	Slaves.	Coaches, etc.	Two-Horse Chaises.	Riding Chairs, etc.	Covered Wagons.	Covering Horses.	£	S.	D.	Amount of the Certificates in each Township.	£	S.	D.	Amount of Taxes.	Number of White Inhabitants.	Amount of State Certificates, etc.
A. B.																																														
C. D.																																														
E. F.																																														
Here cast up the total of each column.																																														

Inhabit'g Land, Houses, Lots, Horses and Cattle of Householders.

* NOTE.—The items marked with an asterisk do not appear on the earlier list.

In 1801 the Legislature passed "An Act designating the taxable property within the State of New Jersey," which, like the preceding lists, recognizes only tangible things. The essential portions of it read as follows:

WHEREAS, There is no existing law designating the taxable property, within this State, in order that the Legislature may be possessed of a true return of the said taxable property, whereon to levy any future taxes whenever the same may be necessary for the use of the State.

1. *Be it enacted*.....That the Assessors of each county .....shall.....take a list of the following articles and things,.....to wit: all tracts of land held or owned by deed, patent, occupancy, survey or otherwise; all houses and lots, all single men and horses, all single men, slaves, covering horses, horses or mules, neat cattle, shop-keepers, tan-yards, fisheries, saw-mills, grist-mills, fulling-mills, furnaces, forges, rolling and slitting mills, ferries, and toll-bridges.

The lists prescribed in these several acts were to be filled up by the assessor, on information furnished by each individual for himself. Any person neglecting or refusing to give in the required account of his property, was to be "assessed and rated the Double of the Sum of what the said Assessors in their Discretion" might suppose such person would otherwise have been rated at. In 1753, an additional penalty of three pounds was also to be paid by delinquents. If an assessor suspected fraud or evasion in making the return, he was to cite the person before a justice of the peace, to be examined under oath.

The present law of the State prescribes no detailed list of personal property on which assessments are to be laid, but makes a comprehensive definition of the term, as follows: "That the term personal estate, as used in this act, shall be construed to include goods and chattels of every description, including steamboats and other vessels, money, debts due or owing from solvent debtors, whether on contract, note, bond, mortgage or book account, public stocks and stocks in cor-

porations, whether said personal estate be within or without this State."

A comparison of this enumeration with the lists already given, shows at once the striking change that has taken place in the forms of personal property. But the means furnished the assessor for discovering it, are even less effective than under the old law just referred to. The assessor is to "ascertain by diligent inquiry, and by the oath or affirmation of the persons to be assessed, and, if necessary, of other persons.....the actual value of all the property, real and personal, taxable in his township." In case any person refuses to make oath or affirmation as to the value of his property, the assessor is to "estimate his property at the highest value he has reason to suppose it may be placed."

There seems to be no reason to doubt that this system, when originally established, fully answered its purpose; but in its application to the present condition of things, we are met at every turn with evidence of its inefficiency. Many assessors in the State report that they make no attempt to ascertain whether stocks, bonds, etc., are held in their townships. Many others express their belief that, after the most diligent efforts, they reach only a very small proportion of what actually exists. The cases are very numerous in which assessors have every reason to believe that individuals possess large wealth, which, nevertheless, they find it impossible to reach for purposes of assessment and taxation. In fact, if experience can be depended on to prove anything, it proves beyond the possibility of question, that the revenues from this source must continue to be disproportionately small, or else that they must be secured by other means than those now in use. Every dollar's worth of property which thus escapes taxation throws an additional burden on the property actually taxed, and the aggregate result, as we have seen, works an injustice which ought no longer to be tolerated.

IV. The considerations above suggested have led the Commission to recommend what seems to them likely to prove

an efficient, if not absolutely complete, remedy for the evil complained of. For the purpose in view, property is regarded as belonging to the following classes:

1. Real Estate.
2. Personal Property, of the tangible and visible kinds.
3. Bonds, stocks, shares, etc., issued by corporations organized under the laws of the State.
4. Bonds, stocks, shares, etc., issued by corporations organized and doing business outside of the State, but owned by residents of this State.
5. Franchises: as represented by Express Companies, Telegraph Companies, and the like.

We recommend that the first two kinds of property above specified be taxed, *in all cases*, where found. Real estate is of course taxed in that way at present; but personal property is taxed, if at all, to the owner at his residence. It is believed that the method proposed will be found more simple, and reach considerable property which now escapes altogether.

Respecting the third class of property, we recommend that it be taxed, in all cases, *at the place of issue*. Opinions differ widely as to the disposition that should be made of taxes raised from this source. Some hold that it should be paid directly into the local treasury; others, that it should be distributed to the places in which the owners respectively reside. The former plan was at one time adopted by this State in respect to the taxation of banks; but in 1869 the Legislature introduced the present system of taxing bank stock in the hands of the owner at the place of his residence. The object intended to be accomplished by this law undoubtedly was to relieve real estate of a portion of its burdens, to the extent of the tax from this source. This is just to all localities, and conforms to the common rule of law which regards such property as adhering to the person or domicile of the owner. But the results secured under the present law have proved extremely unsatisfactory. The tax due from citizens who reside in the place where a bank is

located, is collected without difficulty. But the stock held in other localities is very rarely found by the assessor. The consequence is that, according to the best judgment we have been able to form, several millions of dollars worth of this kind of property alone escape taxation every year; while other millions, issued by the same corporations, are obliged to pay in full. The tax on all can be secured only by taxing it at the bank. Then, if it should be thought desirable to distribute the tax among the localities in which the stock is held, two methods present themselves: 1st. The method adopted in at least one State, of paying the entire tax to the State, and then sending it back to the several localities, on a calculated average basis. 2d. To lay *a uniform tax* on such property throughout the State, and then distribute it among the localities, on the same basis. The working of this method would be as follows:

1st. The Legislature fixes the rate (say 1½, 1¾, or 2 per cent.) at which such stock shall be taxed

2d. The local assessor values and assesses the property of the bank, at the local rate, and reports his valuation to the State Comptroller.

3d. The bank reports to the Comptroller (a) the amount and market value of its capital stock, (b) the amount of surplus, (c) the assessor's valuation of its property, and (d) the number of shares of stock owned out of the State, and in each township in the State.

4th. The Comptroller, deducting the value of the real estate (locally assessed) computes the amount of tax due from each bank, on its shares of stock and surplus, which amount is then paid to him by the bank.

5th. The Comptroller then *credits pro rata* to each county collector, and he in turn to his township collectors, the amount of tax received from stock owned in the respective localities—crediting to the place in which the bank is located all stock owned outside of the State.

The bank tax has been instanced as a convenient illustration of the system; but every corporation whose capital is

divided into shares could be taxed in the same manner. Under this system, every dollar of the tax would be collected by a simple, effective, and inexpensive machinery; and each locality would receive the benefit of the stock there owned. By the amount of such tax, each township would simply be required to pay so much less for State or school purposes, the State having already collected it.

The 5th class of properties should be taxed by a percentage on receipts.

RETURNS OF PERSONAL PROPERTY.

It will be seen that the leading idea of this scheme is to confine the duties of assessors, as far as possible, to finding and valuing visible and tangible property. This leaves only such property as is named in the 4th class to be given up by individuals. To reach this, and other personal property taxed directly to the owner, the Commission, after careful consideration, agree in recommending a modified system of listing. The lists to be uniform throughout the State and furnished to tax-payers by the assessor, then to be returned under oath to that officer. In case any person neglects or refuses to return a list, the assessor to value his property at what he considers the highest reasonable estimate, giving notice to such person of the amount and of the date of the next meeting of the Commissioners of Appeal. In case any assessor should within a proper time (say thirty days) after making an assessment, have reason to suspect fraud or evasion in a return, or should be unable to satisfy himself of the value of any person's property without a sworn statement, we recommend that power should be given to the Assessor to apply to a Judge of the Court of Common Pleas of the county, and that the said Judge should summon such delinquent to appear before him and be examined, in order that the value of his personal property might be ascertained, and a statement thereof as determined by the Judge be furnished to the assessor for his action.

EQUALIZATION OF VALUTIONS.

The Commission have been deeply impressed with the necessity of adopting a system by which the valuation of property in the various townships, cities, and counties, may be made more just and equal. The present law leaves this very important branch of the work of imposing taxes, entirely within the discretion of the authorities of each political division; and such tribunals are interested in establishing such valuation as may be least onerous on their respective constituencies. We would recommend a system of equalization within the various counties by the action of a proper board, to be composed of the assessors of the wards and townships, together with a county assessor to be elected by the people; such assessors, so elected by the various counties, to form a State Board of Equalization, whose duty it shall be to equalize the valuations among the various counties. The expenses attending such a system would not be large, probably not exceeding one hundred dollars for each county; and, with a system of triennial valuations, the State Board would probably need to meet only every third year.

ENFORCEMENT OF COLLECTION.

With respect to the enforcement of the lien provided by the law of 1879, which was designed to authorize sales of real estate and to provide for a more simple method than formerly existed of enabling purchasers to secure possession of the lands and premises sold, the Commissioners would say that the general features of that act, and the provisions which make taxes a first and paramount lien on all lands and real estate assessed, and provide the method of sale and the mode of preserving the evidence thereof, meet with their approval and are believed to be in the main satisfactory to the public. We would, however, recommend that the term for which the premises should be sold should not exceed thirty years. With respect to one feature in that scheme, which is designed to enable purchasers to obtain possession by similar proceedings as purchasers under decree of foreclosure and sale of mortgaged premises, we are of opinion that a better mode and one more generally acceptable to the people of the State would be to enact that, after the period for redemption (say two years) has elapsed, and after the unfortunate delinquent has had an opportunity for that space of time to put forth efforts to save his property, the collector of the township should then apply to the Circuit Court of the county where the lands lie, and, upon proper notice given to the owners by summons or advertisement, obtain from said Court a confirmation of the sale; provided the township officers have complied with the provisions of the law authorizing the sale. In case the occupant of the premises so sold after the confirmation by the Court refuses to deliver possession, a warrant should be issued to the Sheriff of the county, commanding him to eject the occupant. We believe that by a summary proceeding of this character, the expense and delay of actions of ejectment or of chancery proceedings may be avoided, at the same time that the rights of all parties are carefully guarded, and that the public will gain by the greater respect that will be paid to the proceedings by which the law seeks to hold property liable for the performance of the public duty of its owners.

In this connection, we would also recommend that power be given to the authorities entrusted with the sale of real estate, to make amendments to the description of property furnished by the assessor, so that a more full and accurate statement of the locality and extent of such lands may be obtained; with the requirement that all such amendments shall be made before the notice of sale is advertised, and be duly published in such notice for the information of the parties interested.

DEDUCTIONS FOR DEBT.

The subject of deductions on account of indebtedness is

one to which we have had our attention repeatedly drawn, and, after careful consideration, we earnestly recommend that no deductions for debt be hereafter allowed. The person who holds property is the one who derives the primary benefit from its use. He receives protection from the State on account of it, and whatever social or public consideration is connected with its ownership. It is more in accordance with the dignity as well as the interests of the State, to deal directly with property where it is found, without making inquisition as to the private business relations which exist between the owner and some other person. Moreover, aside from the fact that it is no proper concern of the State to inquire into such relations, there is no portion of our present law which offers greater temptation to fraud, evasion and perjury. The remedy proposed is a radical one, but no other can remove the evil. It follows, as a matter of course, that, if no deduction is allowed for debts, there should be no taxation of book accounts and similar forms of credit.

MORTGAGES.

One of the subjects which has been most frequently brought to the attention of the Commission, and one concerning which the widest differences of opinion exist, is the proper treatment of mortgages. Successive legislatures have found themselves perplexed with this question, and under existing laws no uniform rule is possible. A mortgagor, residing within the operation of the "Five County Act," pays the tax on his property and claims no deduction (except in case of special contract) on account of the mortgage. His neighbor, just across the county line, claims a deduction to the extent of any mortgage on his property. The assessor allows the deduction, and then collects the tax from the mortgagee, if he is able and diligent enough. A mortgagor, who has borrowed money outside of the State, claims no deduction on account of his mortgage debt. His neighbor, who has been fortunate enough to borrow from the school fund,

claims and secures his deduction. In this latter case, the township loses its tax on the entire amount of such mortgages, because, though the deduction has been allowed to the mortgagor, no tax can be assessed against the mortgagee—the State. A case of taxation which admits of these inconsistencies is a plain violation, as it seems to us, of the constitutional requirement that "property shall be assessed.....by uniform rules." Respecting the proper rule to be adopted, various suggestions have been offered. Some favor the deduction of mortgages in cases where the tax can be collected from the mortgagee. Others are equally positive that deductions ought never to be allowed. A few urge that the mortgagor should in all cases pay the tax, but that the mortgagee should then be compelled to deduct that amount from the interest due him.

It is earnestly maintained by many whose opinions are entitled to great respect, that both the mortgaged premises and the debt secured by the mortgage may be rightfully taxed, and that such taxation is not double. But the practice of this State has been otherwise, and, as the Commissioners believe, on grounds of substantial reason and justice. The owner of the fee and his mortgagee may be regarded as joint owners of a property, or, at least, as joint contributors to the purchase of it. The property so purchased should be taxed but once. The question is, which party should pay the tax?

The law of 1854 enacted that the mortgagor should pay the tax, and that the mortgagee should allow the amount so paid as a part of the interest due him; but provided that he should not then be further taxed on his mortgage. On the same principle, the law of 1876 forbids the taxation of mortgages, unless a deduction therefor is claimed by the mortgagor; in which case the tax on the mortgage is to be collected for the township in which the mortgaged premises lie. The principle thus adhered to in the legislation of the State, under laws so different in detail, has guided the Commission in the conclusion they have reached. The mortgaged

premises should be taxed where they lie, in order that such locality may have the benefit of a contribution from the property which it protects. But one of the parties (mortgagor and mortgagee) may derive a greater benefit than the other from their respective interests in the mortgaged property, and it is therefore sound policy to allow them to decide between themselves which one shall bear the burdens imposed by the State upon what, in a sense, may be regarded as their joint possession. The method which the Commission recommend, accordingly, of dealing with this class of cases is in brief as follows: Let the assessor tax mortgaged premises the same as all other real estate, without deduction in any case. Let the collector, if the mortgagor desires it, give the latter a special receipt for the proportionate amount of tax paid on account of the mortgage. Then let the law permit and enforce contracts between the parties themselves, as to the allowance of the tax, or any part of it, on account of interest. This method is simple, uniform and equitable. It leaves to the State the simple duty of levying and collecting its tax. It secures to every locality the tax on all its real estate. It leaves private parties to settle the terms of their own contracts in respect to mortgages, the same as in respect to any other matter. And it permits the same variety of usage which now prevails in different parts of the State, where, in some localities the mortgagor, and in others the mortgagee, habitually pays the tax.

TAXATION OF CHURCHES AND INSTITUTIONS OF LEARNING.

Another subject which has been impressed upon the attention of the Commission by many sincere and earnest men is that of taxing the property of churches and institutions of learning. It is urged in support of such a policy, that, under our system of institutions, Church and State must be kept separate; that no person can be required to contribute to the support of any religious establishment, but that the exemption of ecclesiastical property from taxation entails a corresponding burden

upon other property, and thus virtually compels men to pay for the support of religion whether they will or not. Most persons who hold these views oppose any exemption whatever; though a very respectable number are in favor of exempting such property below a certain moderate amount (as five thousand or ten thousand dollars) and taxing all beyond that. It is further urged that such a policy would, in the end, be beneficial to the churches themselves, by securing them a degree of independence which they can never full enjoy under the prevailing system. These and similar arguments are presented by men whose opinions are entitled to great respect, and the subject has been frequently and carefully considered by the Commission. The great preponderance of opinion in this State, so far as it has been expressed in the replies to their questions, is in favor of the present established policy, which is, to exempt all property devoted to religious and charitable uses. Not only has this policy prevailed in New Jersey from its earliest history, but, so far as we are informed, in every other State in the Union; and it may fairly be assumed that any mode of dealing with a great public interest, which secures so general acceptance, must have its foundation deeply laid in the constitution of society. All peoples recognize the fact that some kind of religion is necessary to the very existence of the State, as a moral being. If it is not maintained by the voluntary contributions of the people, it is established by the Government, as the cheapest if not the only possible means of preserving that moral health without which the nation itself must die. But aside from considerations of this kind, and regarding the question as an economical one simply, it is to be remembered that moneys contributed to the support of the institutions of religion are really gifts to the public. They enrich no individual, they produce no income. They are pure charity, more for the benefit of the poor than the rich; and it would seem as necessary, on any ground of consistency, to tax the money given for the support of the clergyman as that given for building the house in which he preaches. The

assumption of those who oppose exemption is, that the money invested in churches would otherwise be subjected to a tax. But this is probably not the case. The money so contributed is not withdrawn by the donor from productive investments, but is a portion of surplus income which he feels free to expend in this particular way. If not spent in this way, it would undoubtedly in most cases be devoted to some other means of personal gratification, instead of being invested in any taxable form. If, as we believe, this view of the matter is correct, the public gains everything and loses nothing, from investment in church property; and the policy of exempting it from taxation is therefore wise and salutary. We recommend, however, that exemption should be strictly confined to the property actually used for religious purposes, and not extended to productive property in the possession of ecclesiastical organizations.

Very similar considerations apply to the property of educational institutions. They are mostly dependent on benevolent gifts for their original endowment, and their continued support. There is no important institution of learning in the United States, and probably not in the world, which could be sustained by the tuition fees of its students. They are dependent on aid from the Government, or on the benefactions of individuals. In this country, higher education is almost wholly a creation of private munificence. Every dollar so contributed is devoted to the public good. It brings advanced education within the reach, in this and other States, of thousands who could not otherwise secure it, and thus trains up for the public service the most aspiring and capable of our youth, among those great middle classes which are the sinew and brain of American society. Several millions of dollars have been donated to this object in this State alone, and on the implied pledge of the State that no portion of its income should be demanded for taxes. Much, if not the greater part of this, has been contributed by residents of other States, and, aside from the opposition that would be likely to follow any attempt to tax these gifts now

in possession, we do not believe the State of New Jersey is prepared to adopt a policy which would for the future have a tendency to turn such gifts away to other States.

EXEMPTION OF MACHINERY.

We desire respectfully to suggest to the Legislature the policy of exempting from taxation all machinery used for manufacturing purposes (except fixtures of the real estate) and agricultural implements—or, at least, authorizing localities to provide such exemption. New Jersey possesses remarkable advantages of position and resources for increasing almost indefinitely her manufacturing interests; and it would seem the part of wisdom to adopt a policy which should invite capital from abroad to develop and utilize these advantages. It will soon become impossible, if it is not already, for the farming industry of this and other Eastern sea-board States to compete with the West in raising staple agricultural products. But our soil and climate are admirably adapted to the production of such articles as would find a ready market in manufacturing towns, and we can conceive of no measure that would more surely promote the agricultural interests of the State, as well as its general prosperity, than thus to enlarge the market at our own doors.

OTHER RECOMMENDATIONS.

The foregoing topics are those which have occupied the principal attention of the Commission, and called out the most earnest and decided expression among those who have presented their suggestions. Besides these, however, the Commission have carefully and minutely considered every detail of the working machinery of taxation, and have reached the following recommendations, which they present without extended comment:

1. That assessors and collectors be elected for a term of

three years, being ineligible for re-election until after the expiration of the same period. There are some objections to this plan, but none, we believe, which are not far outweighed by its obvious and exceedingly important advantages.

2. That the compensation of collectors be fixed by the local authorities by a percentage on moneys actually collected—not in any case to exceed two per cent.; and that the compensation of assessors be fixed by the local authorities, within certain limits to be prescribed in the law—not to be less, say, than two hundred dollars in any case nor more than, say, six hundred dollars.

3. That real estate be valued every three years, with provision for a change of valuation on account of an addition or destruction of improvements on it; and that, in order to facilitate such revaluations, land and improvements be in all cases separately valued.

4. That household goods to the value of one hundred dollars be exempt from taxation.

5. That all persons be furnished with lists specifying the property subject to taxation.

6. That taxes be made payable somewhat earlier than at present. This recommendation comes from nearly every section of the State—the time most generally suggested being about the middle or the twentieth of October.

7. That the Commissioners of Appeal hold their meeting before, rather than after the assessor completes his work.

8. That the *alias* warrant issue, if ever it is necessary, to the collector instead of the constable; but that the collector be held responsible for a proper return to the original warrant.

9. That certificates of tax sales be recorded.

10. That uniform books be furnished to assessors throughout the State.

11. That the tax law be separately printed and furnished to officials.

CONCLUSION.

In the preparation of their report the Commission have not sought to present a full and exhaustive discussion, nor even a complete enumeration of the various topics which have engaged their attention. Their aim has been, rather, to set forth the leading principles by which they have been guided, and the conclusions they have reached on the most important branches of the subject.

In conclusion, they desire respectfully to say that they have bestowed upon the subject entrusted to their consideration, that prolonged and solicitous attention which its importance demanded. They have sought to secure practical and practicable results, rather than to follow the requirements of any abstract theory. To this end they have spared no pains to ascertain the best opinions of the people of the State respecting a matter so vital to their interests, and to devise measures which, without being too remote from the established system of taxation, might engraft upon it some needed improvements. They have carefully considered every provision of the existing tax laws, and, at one time, intended to accompany this report with a bill; but in view of the numerous and important changes recommended, it was deemed to be more in accordance with the spirit of the law authorizing their appointment, and more respectful to the Legislature, to state in this form the conclusions reached, leaving it to that body, if it should see fit, to direct the preparation of a bill. If the views of the Commission should not be approved by the Legislature, it is earnestly recommended that, at least, a codification of existing laws be authorized.

The Commission desire also to express their thanks for the liberal courtesy with which their labors have been aided by the press of the State, by officials, and by citizens

generally; and it is but just to add, that the Clerk of the Commission, Mr. George R. Gray, has rendered them valuable and efficient service.

Respectfully submitted,

GEO. W. ATHERTON,
GEORGE DAYTON,
JOHN P. JACKSON,
NATHAN T. STRATTON,
WILLIAM PATERSON.

February 16, 1880.

NOTE. One member of the Commission, the HON. NATHAN T. STRATTON, was prevented by illness from attending the meeting at which the report was finally adopted. But as there had been substantial concurrence between himself and the other members, he authorized the signature of his name. It seemed proper, however, to relieve him by this statement from any responsibility which he might not wish to assume.

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